THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.22766 OF 2005

Date:24.10.2005

Between:

O.Nageswara Reddy

… Petitioner

AND

The Depot Manager, APSRTC.

… Respondent

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.22766 OF 2005

ORDER:

The petitioner is employed as a conductor in A.P.S.R.T.C. The petitioner was issued a charge sheet dated 26.06.1990 on the ground that he refused to perform the duty on 17.06.1990. He was directed to explain as to why necessary disciplinary action shall not be taken against him for the alleged irregularity. The petitioner submitted his explanation. While so, the respondent passed an order, dated 13.11.1990, imposing penalty of stoppage of annual increment for a period of two years and further directed that it shall have the cumulative effect on the future increments. The petitioner challenges the same.

The only point urged by Miss Shakera Banu, the learned counsel for the petitioner, is that the respondent imposed the penalty of stoppage of annual increment for a period of two years with cumulative effect without conducting departmental enquiry. He placed reliance upon the judgment of the Apex Court in ***KULWANTH SINGH GILL v. STATE OF PUNJAB*** and submits that stoppage of increment is a major penalty and it cannot be imposed, except by conducting departmental enquiry.

Sri P.Vinayaka Swamy, the learned Standing Counsel appearing for the respondents, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the irregularities on his part are taken into account.

It is a matter of record that the respondent imposed the penalty of stoppage of annual increment for a period of two years with cumulative effect, on the allegation that the petitioner was refused to perform the duty on 17.06.1990. Though a charge sheet was issued to the petitioner before the penalty was imposed, no departmental enquiry was conducted. In ***KULWANTH SINGH GILL's case*** (supra), the Supreme Court held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the respondent to pass fresh orders. To avoid further delay and complication in the matter, this Court is of the view that the impugned order can be treated as the one for stoppage of annual increment for a period of two years without cumulative effect.

Hence, the writ petition is partly allowed directing that the order, dated 13.11.1990, passed by the respondent shall be treated as the one for stoppage of annual increment for a period of two years without cumulative effect. However, the petitioner shall not be entitled to any monetary benefit that had accrued up to the date of this order. There shall be no order as to costs.

28.09.2005

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